

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NICHOLAS RAY PIRTLE,

Plaintiff,

v.

DANIEL BULLOCK, et al.,

Defendants.

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No. 4:18-cv-2101-JMB

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. For the reasons explained below, this action will be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

The background of this case is fully set forth in the prior orders of this Court. However, following is a brief recitation. Plaintiff Nicholas Ray Pirtle filed this civil action on December 17, 2018. He sought and was granted leave to proceed *in forma pauperis*, and the Court reviewed his complaint pursuant to 28 U.S.C. § 1915(e)(2). The Court determined that the complaint failed to state a plausible claim for relief, and in an order dated February 5, 2019, directed plaintiff to file an amended complaint. In that order, the Court cautioned plaintiff that his failure to timely comply would result in the dismissal of his case, without prejudice and without further notice.

Plaintiff did not respond to the Court within the time permitted. However, noting that a change in plaintiff's address may have delayed his receipt of the February 5, 2019 order, the Court entered an order *sua sponte* giving him additional time to comply. In so doing, the Court again cautioned plaintiff that his failure to timely comply would result in the dismissal of his case, without prejudice and without further notice.

Plaintiff's response to the Court was due on April 1, 2019. However, to date, plaintiff has neither filed a response nor sought additional time to do so. Plaintiff was given meaningful notice of what was expected and ample time to comply, and he was twice cautioned that his case would be dismissed if he failed to timely comply. Therefore, this action will be dismissed without prejudice due to plaintiff's failure to comply with the prior orders of this Court and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order), *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so).

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 9th day of April, 2019.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE